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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,476	02/04/2004	Stephen Roux	1857.0770001	1910
26111	7590	07/12/2004	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			HUGHES, JAMES P	
		ART UNIT	PAPER NUMBER	
			2881	

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	10/770,476	Applicant(s)
	ROUX, STEPHEN	
Examiner	Art Unit	
James P. Hughes	2881	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 04 February 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 020404.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Claim Objections

1. Claims 1 and 9 are objected to because of the following informalities. Claims 1 and 9 recite a limitation of “the first gas and the second gas to *isolated* the first gas from the second gas” [emphasis added] (lines 5-6 of each claim). Perhaps the word “isolated” in each claim should be replaced with – isolate –. Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of copending Application No. 10/300,898, which was previously allowed. While this patent has not yet been published, the issue fee was paid on January 6, 2004. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant application are obviously anticipated by the claims of the 10/300,898 application. Both

applications disclose a multi-chambered lithography system including a gas recycling means. For example, claims 1 and 9 of the instant invention substantially claim the same invention as claims 1 combined with 5, and 10 combined with 14, respectively, of the 10/300,898 application. The instant invention's recitations in claims 1 and 9 of "a first portion" (line2) and "a second portion" (line 3) are obvious semantic changes to the recited limitations of claims 1 combined with 5, and 10 combined with 14, in the 10/300,898 application of "a first chamber" (line 2 from claim 1) and "a second chamber" (line 3 from claim 1). Claims 1 and 9 of the instant invention recite the limitation of the invention's use in a lithography tool (e.g., line 3 of claim 1). While claims 1 combined with 5, and 10 combined with 14 of the 10/300,898 application do not recite an applicability in a lithography tool, it would have been obvious to one of ordinary skill in the art that the time of the invention that claims 1 combined with 5, and 10 combined with 14 in the 10/300,898 application could be used in a lithography tool. One of ordinary skill in the art at the time of the invention would have been motivated to do so because the invention represented by claims 1 combined with 5, and 10 combined with 14 would provide an efficient means for recycling gases used in a lithography tool.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gutowski et al. (6,133,577) teaches a method and apparatus comprising a diffuser which captures a gas and recycles it such that the gas repeatedly flows from the nozzle and is

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repeatedly stimulated to provide EUV light. Additionally, means for recycling gas from the vacuum chamber by the vacuum pump is taught. (See e.g., Col. 4, ll. 15-25) Silfvast et al. (6,188,076) teaches a lithography system wherein a gas recycling system is employed. (See e.g., Col. 11, ll. 20-40 and Fig. 3B) Hayashi (2001/0055101) teaches a lithography device and method comprising a gas an system that collects the gas exhausted from the optical system and supplies the gas to the mask chamber. (Abstract) Hayashi (6,559,922) teaches an apparatus and method for providing a purged optical path between an optical source surface and a target. (Abstract)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James P. Hughes whose telephone number is 571-272-2474. The examiner can normally be reached on Monday - Friday 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Lee can be reached on 571-272-2477. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James P. Hughes
Patent Examiner
Art Unit 2881

JH

Nikita Wells
NIKITA WELLS
PRIMARY EXAMINER
06/04/04